

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JUAN MORGAN,

Plaintiff,

v.

**MIKE JOHANNNS, SECRETARY,
DEPARTMENT OF AGRICULTURE,**

Defendant.

)
)
)
) **Civil Action No.: 05-989 (RCL)**
)
)
)
)
)
)
)

MOTION FOR NEW SCHEDULING ORDER OR FOR STATUS CONFERENCE

Defendant respectfully moves the Court to enter a new scheduling order in this case because the discovery period has now closed, or, alternatively, to set a status conference to discuss scheduling issues raised in a letter improperly sent to the Court by Plaintiff.

More specifically, Defendant, through newly-assigned counsel, requests that the Court order that dispositive motions shall be filed within 60 days of the close of discovery or by February 1, 2008, oppositions within 30 days or by March 3, 2008, and replies within 21 days or by March 24, 2008. The requested order would amend the Court's Order dated May 15, 2007 (Document 27), which set a deadline of July 31, 2007, for completion of discovery in this case, and a deadline of September 1, 2007, for the filing of dispositive motions. The Court extended the discovery deadline twice – by Order dated August 6, 2007 (Document 29) and by Order dated September 25, 2007 (Document 33) – but did not set a new briefing schedule in either Order. The latter order extended discovery until November 30, 2007, for the limited purpose of completing depositions. Hence, the discovery period is now closed and a new schedule should be set for filing dispositive motions.

Defendant is aware that Plaintiff, who is pro se, but has previously filed a motion in this case (see Document 26), wrote a letter to the Court, dated November 16, 2007, requesting a further enlargement of the discovery period until February 29, 2008. This letter was sent in violation of Local Rule 5.1(b) (“Except when requested by a judge, correspondence shall not be directed by the parties or their attorneys to a judge, nor shall papers be left with or mailed to a judge for filing”), and has not been docketed. Accordingly, the discovery period expired without a timely motion for enlargement.

For the foregoing reasons, Defendant requests that the Court enter a new briefing scheduling for dispositive motions. Alternatively, if the Court is inclined to treat Plaintiff’s letter as a motion to enlarge the discovery period, Defendant requests that the Court set a status hearing to address the issues raised in Plaintiff’s letter, which indicate a strong likelihood that Plaintiff will be unable to complete the proffered discovery within the requested time period.¹

¹ Plaintiff’s November 16, 2007 letter acknowledged that Defendant has done everything we agreed to do in the Consent Motion to Enlarge Discovery Period and For New Scheduling Order, filed on September 17, 2007 (Document 32). Defendant has taken Plaintiff’s deposition telephonically, and Defendant has made available to Plaintiff for depositions the two United States Department of Agriculture (“USDA”) officials referenced in the consent motion, including the official currently working in East Asia. Plaintiff represented in the letter that he had taken the deposition of one of the two officials (telephonically), and expected to depose the other official “in the next few weeks.” Plaintiff, however, did not depose the second official prior to the close of discovery. Moreover, Plaintiff has not deposed any of the former USDA officials referenced in both the consent motion and Plaintiff’s November 16, 2007 letter to the Court (including one who lives in Austria), and now expands the list of potential deponents to include two Panamanian nationals.

Respectfully submitted,

/s/

JEFFREY A. TAYLOR, D.C. Bar # 498610
United States Attorney

/s/

RUDOLPH CONTRERAS, D.C. Bar # 434122
Assistant United States Attorney

/s/

JOHN G. INTERRANTE
PA Bar # 61373
Assistant United States Attorney
Civil Division
555 4th Street, N.W.
Washington, D.C. 20530
(202) 514-7220
(202) 514-8780 (fax)
John.Interrante@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of December, 2007, I caused a copy of the foregoing motion to be served by First-Class mail, postage prepaid, on:

Mr. Juan Morgan (pro se)
PSC 2, Box 2814
APO AA 34002

and by email addressed to delfines24@yahoo.com.

John F. McHugh, Esq.
Law Offices
6 Water Street
New York, NY 10004

and by email addressed to jfmchughpc@aol.com.

_____/s/_____
JOHN G. INTERRANTE
Assistant United States Attorney
Civil Division
555 4th Street, N.W.
Washington, D.C. 20530
(202) 514-7220
(202) 514-8780 (fax)
John.Interrante@usdoj.gov

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JUAN MORGAN,

Plaintiff,

v.

MIKE JOHANNNS, SECRETARY,
DEPARTMENT OF AGRICULTURE,

Defendant.

)
)
)
)
) Civil Action No.: 05-989 (RCL)
)
)
)
)
)
)

ORDER

Upon Consideration of Defendant's Motion for New Scheduling Order, and the entire record herein, it is hereby

ORDERED that the motion is **GRANTED**.

It is further **ORDERED** that the dispositive motions shall be filed by February 1, 2008, oppositions by March 3, 2008, and replies by March 24, 2008.

It is **SO ORDERED** this _____ day of December, 2007.

Royce C. Lamberth
United States District Judge